

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

ROW VAUGHN WELLS, INDIVIDUALLY)
AND AS ADMINISTRATRIX OF THE)
ESTATE OF TYRE DEANDRE NICHOLS,)
DECEASED,)
)
Plaintiffs,)
)
v.) CASE NO. 2:23-CV-02224
 JURY DEMAND
THE CITY OF MEMPHIS, A)
MUNICIPALITY; CHIEF CERELYN DAVIS,)
IN HER OFFICIAL CAPACITY; EMMITT)
MARTIN III, IN HIS INDIVIDUAL)
CAPACITY; DEMETRIUS HALEY, IN HIS)
INDIVIDUAL CAPACITY; JUSTIN SMITH,)
IN HIS INDIVIDUAL CAPACITY;)
DESMOND MILLS, JR. IN HIS INDIVIDUAL)
CAPACITY; TADARRIUS BEAN, IN HIS)
INDIVIDUAL CAPACITY; PRESTON)
HEMPHILL, IN HIS INDIVIDUAL)
CAPACITY; ROBERT LONG, IN HIS)
INDIVIDUAL CAPACITY; JAMICHAEL)
SANDRIDGE, IN HIS INDIVIDUAL)
CAPACITY; MICHELLE WHITAKER, IN)
HER INDIVIDUAL CAPACITY; DEWAYNE)
SMITH, IN HIS INDIVIDUAL CAPACITY)
AND AS AGENT OF THE CITY OF)
MEMPHIS,)
)
Defendants.)

**DEFENDANT CITY OF MEMPHIS'S MOTION FOR EXTENSION OF TIME TO FILE
SUPPLEMENTAL RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR
PROTECTIVE ORDER**

Defendant City of Memphis (the "City"), by and through its undersigned counsel and pursuant to Local Rule 7.2, moves this Court for an Order allowing the City additional time to

file its Supplemental Response in opposition to Plaintiff's Motion for Protective Order. (See ECF No. 211.) In support, the City states the following:

1. On November 15, 2024, the City filed its Unopposed Motion for Leave to File Supplemental Response in Opposition to Plaintiff's Motion for Protective Order. (ECF No. 230.)
2. On November 15, 2024, this Court entered an Order granting the City's Unopposed Motion for Leave to File Supplemental Response in Opposition to Plaintiff's Motion for Protective Order. (ECF No. 231.)
3. The Court's Order granting the City's Unopposed Motion for Leave to File Supplemental Response in Opposition to Plaintiff's Motion for Protective Order stated, “[t]he City has up to and including November 22, 2024, to file its Supplemental Response.” (ECF No. 231.) Thus, the City's current deadline for filing its Supplemental Response in opposition to Plaintiff's Motion for Protective Order is November 22, 2024.
4. The City requested leave to file a Supplemental Response in opposition to Plaintiff's Motion for Protective Order due to facts and information learned during various depositions taken by the City on November 11–13, 2024. (ECF No. 230.) As such, the City will rely, in part, on testimony from those depositions in making its additional arguments in opposition to Plaintiff's Motion for Protective Order.
5. On November 20, 2024, Plaintiff advised they will designate portions of the deposition transcripts relevant to the City's Supplemental Response in opposition to Plaintiff's Motion for Protective Order as “CONFIDENTIAL,” thus requiring the City's Motion to be filed under seal. Based on the November 20, 2024 consultation with Plaintiff's counsel, the City will likely oppose Plaintiff's confidentiality designations.
6. The City does not believe its Supplemental Response should be filed under seal.

7. The City further expects that Court intervention will be necessary to determine what, if any, portions of these deposition transcripts may be appropriately deemed “CONFIDENTIAL.” In an effort to allow the Court to preview the propriety of any confidentiality designations, the City is submitting one of the relevant deposition transcripts as an Exhibit to this Motion under seal. The deposition transcript, submitted as Exhibit 1, is filed separately under seal.¹

8. Accordingly, the City requests that the Court allow it seven days from the time the confidentiality issue(s) are resolved by the parties or by the Court to file its Supplemental Response in opposition to Plaintiff’s Motion for Protective Order.

DATED: November 21, 2024.

Respectfully submitted,

**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**

s/ Bruce McMullen

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¹ The City is filing the deposition transcript under seal to comply with the Court’s instruction on November 18, 2024. In that communication, the Court indicated that it sealed the City’s Motion for Leave to File Supplemental Response to Plaintiff’s Motion for Protective Order (ECF No. 230), as “an interim measure and will consider the merits of the sealing issue once the City has filed a response to Plaintiff’s Motion to Seal (ECF Nos. 234 & 235).” Moreover, the Court instructed “[w]hen responding to the Motion to Seal, the City should redact and/or file under seal any arguments that directly reference the identifying information that is at issue in the Motion to Seal.” Thus, the City is filing the deposition transcript (Exhibit 1) under seal.

*Attorneys for Defendant City of Memphis,
Chief Cerelyn Davis in her Official
Capacity, and Dewayne Smith as Agent of
the City of Memphis*

CERTIFICATE OF CONSULTATION

I, Bruce McMullen, certify that on November 20 and 21, 2024, counsel for the City conferred with counsel for Plaintiff, Joshua Levin, Sarah Raisch, and Steve Weil, via telephone conference and email regarding the request for an extension of time. At the time of this filing, Plaintiff has not agreed to the specific relief sought in this Motion. Plaintiff indicated that they would agree to the extension of the deadline if the City agreed to an omnibus briefing schedule related to multiple pending and forthcoming motions. The Plaintiff and City were not able to agree by the time of the filing of the Motion, and the City is, therefore, representing that this Motion is opposed by Plaintiff.

The other parties to the litigation were asked via email on November 21, 2024, their position on the relief sought in this Motion. A chart detailing the parties' responses is below:

Party	Responding Counsel	Opposition?
Plaintiff	Joshua Levin	Yes
Long	No response	
Hemphill	Betsy McKinney	No
D. Smith	Betsy McKinney	No
Whitaker	No response	
Sandridge	No response	
Haley	No response	
Bean	No response	
Martin III	No response	
Mills, Jr.	No response	
J. Smith	No response	

s/ Bruce McMullen
Bruce McMullen

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served upon all counsel of record and the Guardian Ad Litem via the Court's electronic filing system on November 21, 2024.

s/ Bruce McMullen
Bruce McMullen